

Autoliv ASP, Inc. asks the Utah Labor Commission to review Administrative Law Judge Sessions' denial of Autoliv's motion for summary judgment against the Utah Occupational Safety & Health Division ("UOSH"). This matter arises out of several citations issued by UOSH against Autoliv for alleged violations of occupational safety standards established pursuant to the Utah Occupational Safety and Health Act, Title 34A, Chapter 6, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12 and Utah Code Ann. §34A-6-304.

BACKGROUND AND ISSUES PRESENTED

In August 2002, UOSH issued several citations against Autoliv for alleged violations of occupational safety and health standards. Autoliv contested the citations in proceedings before the Commission's Adjudication Division. Some of the citations have now been dismissed, but others remain in dispute. These remaining citations have been characterized as "serious" by UOSH. As such, they carry relatively large penalties and can have other unfavorable ramifications for Autoliv.

On April 25, 2004, Autoliv filed a motion for summary judgment in which it attempted to establish as a matter of law that the remaining citations against it could only be characterized as "less than serious" or should be dismissed outright. In a decision issued March 24, 2005, Judge Sessions concluded that issues of material fact remained in genuine dispute, thereby precluding summary judgment in favor of Autoliv.

Autoliv then sought Commission review of Judge Sessions' decision. UOSH responded by challenging Autoliv's right to seek Commission review at this stage of these proceedings.

DISCUSSION

In support of its argument that the Commission lacks jurisdiction to consider Autoliv's interlocutory motion for review, UOSH refers to §34A-6-304 of the Utah Occupational Safety and Health Act and § 63-46b-12 and 13 of the Utah Administrative Procedures Act.

The Commission has previously considered this same question in the context of workers' compensation and employment discrimination cases and has consistently held that, although the Commission has discretion to undertake interlocutory review of an ALJ's preliminary rulings, the Commission should exercise such discretion only in unusual circumstances. Interlocutory review can have the effect of diminishing the ALJ's ability to organize and manage evidentiary hearings, disrupting the adjudicatory process, and delaying the resolution of claims. Consequently, the Commission will entertain interlocutory motions for review only if the potential advantage from deciding the issues presented will outweigh "the interruption of the hearing process and the other costs of piecemeal review." (Charles H. Koch, Jr., Administrative Law and Practice (1985), §6.75.)

The Commission has carefully considered the parties' submissions in this matter and finds no

sufficient reason to review Judge Sessions' denial of Autoliv's motion for summary judgment. By its very nature, Autoliv's motion raises issues that require full development of the evidentiary record. Such issues are particularly unsuited to summary disposition. Furthermore, Autoliv will have full opportunity for agency and judicial review if it remains dissatisfied after Judge Sessions has issued his final decision.

ORDER

The Commission dismisses Autoliv's interlocutory motion for review and remands this matter to Judge Sessions for completion of the adjudicatory process. It is so ordered.

Dated this 12th day of October, 2005.

R. Lee Ellertson, Commissioner